

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

FRED E. HARTER,

Plaintiffs,

v

Case No. 06-13657

STEPHEN DAVIS, JONG CHOI,  
BONITA DAVIS NEIGHBORS,  
and JOHN DOE,

DISTRICT JUDGE ARTHUR J. TARNOW  
MAG. JUDGE PAUL J. KOMIVES

Defendants.

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**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION  
DIRECTING THE CLERK TO CORRECT THE CASE CAPTION AND DENYING  
DEFENDANT'S MOTION TO DISMISS [Docket #13]**

There having been no objection to Magistrate Judge Komives' Report and Recommendation [Docket #16] filed May 31, 2007 and the Court being fully advised in the premises;

IT IS HEREBY ORDERED that the Report and Recommendation of Magistrate Judge Komives is ADOPTED.

IT IS FURTHER ORDERED that the Clerk is directed to correct the case caption to reflect the identified defendants' full names: Stephen Davis, Jong Choi, Bonita Davis Neighbors, Nancy Martin and James Armstrong.

IT IS FURTHER ORDERED that defendants' Fed. R. Civ. P. 12(b)(6) motion to dismiss [Docket #13] is DENIED WITHOUT PREJUDICE to the right of defendants to assert failure to exhaust in further pleadings, such as in a motion for summary judgment. (It is noted Defendants have filed a motion for summary judgment on June 15, 2007 [Docket #18].

s/Arthur J. Tarnow  
Arthur J. Tarnow  
United States District Judge

Dated: June 20, 2007

I hereby certify that a copy of the foregoing document was served upon counsel of record on June 20, 2007, by electronic and/or ordinary mail.

s/Catherine A. Pickles  
Judicial Secretary